

Order

Michigan Supreme Court
Lansing, Michigan

July 3, 2018

Stephen J. Markman,
Chief Justice

156701 & (24)(25)(31)

Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein
Kurtis T. Wilder
Elizabeth T. Clement,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 156701
COA: 337632
Oakland CC: 2012-240412-FC

TIMOTHY LAWRENCE CALDWELL,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the September 15, 2017 order of the Court of Appeals is considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Oakland Circuit Court for a determination of whether the defendant is indigent and, if so, for the appointment of substitute appellate counsel, in light of *Halbert v Michigan*, 545 US 605 (2005). Based on our review of the record, the circuit court granted original appointed appellate counsel's motion to withdraw, but did not address the request for the appointment of substitute appellate counsel. On remand, substitute appellate counsel, once appointed, may file an application for leave to appeal in the Court of Appeals for consideration under the standard for direct appeals, and/or any appropriate postconviction motions in the circuit court, within six months of the date of the circuit court's order appointing counsel. Counsel may include among the issues raised, but is not required to include, the issues that were raised by the defendant in his motion for relief from judgment that was filed in 2016. The defendant's motion for appointment of counsel and his motions for miscellaneous relief are DENIED as moot.

We do not retain jurisdiction.



d0625p

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

July 3, 2018

Clerk